

**BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE**

August 24, 1999

IN RE:

**PETITION OF BEN LOMAND COMMUNICATIONS,
INC. FOR APPROVAL OF A SUSPENSION OF THE
REQUIRED DATE FOR IMPLEMENTING
INTRALATA TOLL DIALING PARITY**

DOCKET NO. 99-00258

**ORDER APPROVING THE SUSPENSION OF
INTRALATA TOLL DIALING PARITY IMPLEMENTATION**

This matter came before the Tennessee Regulatory Authority (the "Authority") on June 22, 1999, at a regularly scheduled Authority Conference, to consider the Petition of Ben Lomand Communications, Inc. for suspension of the requirement to provide IntraLATA Toll Dialing Parity.

Section 251(b) of the Telecommunications Act of 1996 ("the Act") requires all Local Exchange Carriers to provide dialing parity.¹ Specifically, section 251(b)(3) of the Act states, "Dialing Parity - The duty to provide dialing parity to competing providers of telephone exchange service and telephone toll service, and the duty to permit all such providers to have nondiscriminatory access to telephone numbers, operator services, directory assistance, and directory listing, with no unreasonable dialing delays." The Act in sections 251(f)(1) and 251(f)(2) allows state commissions to approve a modification or suspension of dialing parity rules for carriers with fewer than 2% of the total access lines nationwide. The requirements for granting the modification or suspension are that the modification or suspension will allow the carrier to prevent a condition that will be economically

¹ Telecommunications Act of 1996, Pub. L. No. 104-104, (February 8, 1996), codified at 47 U.S.C. §§151 *et seq.*

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burdensome, or that is technically infeasible, or will allow avoidance of an adverse economic impact and is consistent with the public interest.

The Federal Communications Commission ("FCC") initiated a rulemaking on dialing parity on April 19, 1996 and issued its findings in FCC 96-333 Order (Docket 96-98) adopted on August 8, 1996. This Order sets forth the criteria and guidelines for filing of a plan by all carriers. Subsequent to this Order the United States Court of Appeals for the Eighth Circuit vacated the FCC's rules, as they were applicable to intrastate services.² On January 25, 1999, the United States Supreme Court reversed certain portions of the Eighth Circuit's decision including that part of the decision which had stricken the FCC's rules pertaining to dialing parity.³

The FCC's original date for implementation, February 8, 1999, was reinstated by the Supreme Court's decision of January 25, 1999. As a result of this reinstatement, the FCC released FCC 99-54 Order (Docket 96-98) on March 23, 1999, which set forth revised implementation dates for dialing parity. This Order establishes April 22, 1999 as the new date by which all Local Exchange Carriers must file an IntraLATA Toll Dialing Parity Plan with State Commissions for approval. The Plan must be implemented within thirty (30) days after approval from the State Commission. Additionally, the Order states that the Plan must be filed with the Common Carrier Bureau of the FCC if the State Commission has not acted on the Plan by June 22, 1999.

Ben Lomand Communications, Inc. is a Competing Local Exchange Carrier that has not begun to offer service in Tennessee at the present time and requests to delay implementing intraLATA toll dialing parity. Because it is technically infeasible to offer intraLATA toll dialing parity, Ben Lomand Communications requests that the Authority approve a suspension of the requirement to implement intraLATA toll dialing parity. This request is made pursuant to Section 251(f)(2) of the Telecommunications Act of 1996. Specifically, Ben Lomand Communications requests to be allowed to delay the submission of an intraLATA toll dialing parity implementation plan until sixty (60) days

² FCC v. Iowa Utils. Bd., United States Court of Appeals for the Eighth Circuit, July 18, 1997.

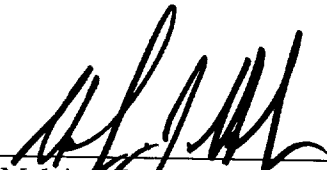
³ AT&T v. Iowa Utils. Bd., 119 S.Ct. 721 (1999).


prior to offering local service.

The Directors considered the request of Ben Lomand Communications, Inc. at the June 22, 1999 Authority Conference. At that time the Directors unanimously voted to approve this request.

IT IS THEREFORE ORDERED THAT:


1. The request of Ben Lomand Communications, Inc. to delay implementation of intraLATA toll dialing parity is approved;
2. Ben Lomand Communications, Inc. shall file an intraLATA Toll Dialing Parity Implementation Plan with the Tennessee Regulatory Authority sixty (60) days prior to offering local service; and
3. Any party aggrieved by the Authority's decision in this matter may file a Petition for Reconsideration with the Authority within ten (10) days from and after the date of this Order.


Melvin J. Malone, Chairman


H. Lynn Greer, Jr., Director


Sara Kyle, Director

ATTEST:


K. David Waddell, Executive Secretary